

Message Text

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FM AMEMBASSY CARACAS

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C O N F I D E N T I A L CARACAS 2062

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FOR THE SECRETARY

E.O. 11652: XGDS-1

TAGS: OVIP (KISSINGER, HENRY A.) MASS, VE

SUBJECT: MILITARY ASSISTANCE TO VENEZUELA

1. SUMMARY: THE FMS PROBLEM REFERRED TO BY CARLOS ANDRES PEREZ IN CONVERSATION WITH YOU COMES DOWN TO THE PROVISIONS OF THE VENEZUELAN CONSTITUTION PROHIBITING THE GOV AND ITS ENTITIES FROM SUBMITTING TO THE JURISDICTION OF FOREIGN COURTS. TREASURY INSISTST THAT THE PROPOSED CREDIT AGREEMENT ASSIGN JURISDICTION OVER ANY FUTURE LITIGATION TO DISTRICT OF COLUMBIA COURTS. A RELATED PROBLEM IS DANTE FASCELL'S EFFORT TO ELIMINATE GRANT MAP TRAINING FUNDS FROM THIS YEAR'S FOREIGN ASSISTANCE ACT. I BELIEVE WE SERVE OUR NATIONAL INTEREST BY CONTINUING MODEST TRAINING AND CREDIT PROGRAMS. BUT I NOTE THAT WE ARE BETTER OFF ALLOWING FMS CREDIT TO VANISH BECAUSE OF A LEGAL DISPUTE THAN WE WOULD BE IN CONFRONTIN A FINDING BY THE CONGRESS OR THE ADMINISTRATION THAT VENEZUELA IS TOO RICH TO QUALIFY. END SUMMARY.

2. I UNDERSTAND THAT PRESIDENT PEREZ RAISED WITH YOU AT BREAKFAST ON TUESDAY HIS DISAPPOINTMENT OVER OUR INABILITY TO PROVIDE FMS CREDITS TO VENEZUELA THIS FISCAL YEAR. THE BACKGROUND TO
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THIS ISSUE FOLLOWS.

3. WE OFFERED \$17 MILLION IN FMS CREDITS LAST FISCAL YEAR IN THE FORM OF A GUARANTEED LOAN FROM THE FEDERAL FINANCING BANK (FFB), A DEPENDENCY OF THE TREASURY DEPARTMENT. THE LOAN AGREEMENT PROVIDED THAT ANY LITIGATION ARISING FROM THE CONTRACT WOULD TAKE PLACE EXCLUSIVELY IN DISTRICT OF COLUMBIA COURTS. THE GOV'S COMPTROLLER GENERAL INFORMED THE MINISTRY OF DEFENSE THAT THIS PROVISION COULD NOT BE ACCEPTED SINCE THE VENEZUELAN CONSTITUTION LIMITS THE RESOLUTION OF DISPUTES INVOLVING GOVERNMENT ENTITIES TO THE NATIONAL COURTS OR INTERNATIONAL TRIBUNALS.

4. THE MINISTRY OF DEFENSE THEN SUGGESTED REVERTING TO THE PRACTICE EMPLOYED IN PREVIOUS DIRECT FMS CREDIT AGREEMENTS WITH DOD: I.E., SIMPLY OMITTING ANY REFERENCE TO POSSIBLE FUTURE LITIGATION. TREASURY REJECTED THIS PROPOSAL, ASSERTING THAT NO EXCEPTIONS COULD BE MADE TO THE STANDARD PROVISIONS OF FFB'S LOAN AGREEMENTS. NOR WOULD TREASURY ENTERTAIN SUBSTITUTING RECOURSE TO AN INTERNATIONAL TRIBUNAL. TREASURY MAINTAINED THAT THE INSISTENCE ON DISTRICT OF COLUMBIA VENUE WAS UNRELATED TO ITS CONTINUING OPPOSITION TO THE EXTENSION OF ANY FMS CREDITS TO VENEZUELA--OPPOSITION BASED ON THE JUDGMENT THAT "NO ECONOMIC JUSTIFICATION" CAN BE FOUND FOR SUCH CREDITS AND THAT THEIR DENIAL WOULD HAVE NO "LASTING NEGATIVE IMPACT ON EFFORTS TO IMPROVE BILATERAL RELATIONS WITH THE GOV."

5. WE WERE THUS UNABLE TO CONCLUDE AN FMS CREDIT AGREEMENT IN FY'75. THE CONGRESSIONAL PRESENTATION DOCUMENT SUBMITTED TO THE CONGRESS LAST OCTOBER 30 SETS AN FMS CREDIT LEVEL OF \$16 MILLION FOR FY'76. BUT AS MATTERS STAND THE VENUE ISSUE WILL ONCE AGAIN BLOCK AGREEMENT. IT IS MY UNDERSTANDING THAT NO FMS CREDIT WILL BE REQUESTED FOR VENEZUELA IN FY'77.

6. A RELATED ISSUE IS THE ATTEMPT IN THE CONGRESS INITIATED BY DANTE FASCELL TO ELIMINATE \$800 THOUSAND IN MAP TRAINING FROM THE FY'76 FOREIGN ASSISTANCE ACT. FASCELL'S POINT IS THAT VENEZUELA CAN AFFORD TO PAY FOR ITS OWN MILITARY TRAINING, BUT THE ARMED FORCES HERE SEE THE MOVE AS ANOTHER HOSTILE ACT COMPARABLE TO THE ADOPTION OF THE OPEC CLAUSE IN THE TRADE REFORM ACT. I AM TOLD THAT WE HOPE TO PREVENT A SIMILAR MOVE IN THE SENATE AND WILL WORK TO HAVE THE CONFERENCE COMMITTEE

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DROP THE FASCELL PROVISION FROM THE FINAL VERSION. AN ADDITIONAL COMPLICATION HAS SURFACED IN CONGRESSMAN VANIK'S CONTENTION THAT THE HICKENLOOPER AMENDMENT MIGHT HAVE BEEN SO TRIGGERED BY VENEZUELA'S "EXPROPRIATION" OF THE OIL INDUSTRY.

7. COMMENT: CARLOS ANDRES PEREZ WORRIES INTERMITTENTLY ABOUT HIS MILITARY. VENEZUELA HAS, AFTER ALL, ENJOYED LESS THAN 20 YEARS OF NON-MILITARY RULE IN ALL ITS HISTORY. HE HOPES WE

WILL GIVE HIM A HAND IN KEEPING THE GENERALS AND COLONELS MORE OR LESS CONTENT. FMS CREDITS OFFER A USEFUL INSTRUMENT TO THAT END BECAUSE, UNLIKE PRIVATE CREDIT OR CASH SALES, THEY CAN BE CONTRACTED WITHOUT CONGRESSIONAL APPROVAL AND THE PUBLIC DEBATE WITH THE MARXISTS POSSIBLY ENTAILED IN THAT PROCESS. THE MILITARY ARE PREPARED TO PAY COMMERCIAL INTEREST RATES AND THUS WOULD NOT LIKELY BE IMPRESSED BY TREASURY'S ARGUMENT THAT FMS CREDITS REPRESENT ECONOMIC ASSISTANCE.

8. MY OWN VIEW IS THAT WE HAVE A CONTINUING NATIONAL INTEREST IN PROVIDING MODEST MILITARY CREDITS AND TRAINING. THE ARMED FORCES ARE GOING TO BE A CRITICAL ELEMENT OF THIS SOCIETY FOR A LONG TIME TO COME. THEIR RELATIONSHIP WITH THE U.S. HAS BEEN HISTORICALLY GOOD AND HAS, I BELIEVE, SERVED DURING THE LAST 15 YEARS OR SO TO SUPPORT THE ESTABLISHMENT OF A STABLE, DEMOCRATIC SYSTEM OF GOVERNMENT. I FIND IT DIFFICULT TO FORESEE MUCH OF THE TRADITIONAL RELATIONSHIP SURVIVING OUR WITHDRAWAL OF CREDIT AND TRAINING FACILITIES.

9. I SHOULD NOTE, HOWEVER, THAT IF WE ARE TO ELIMINATE VENEZUELA FROM THE FMS LIST, IT IS FAR BETTER TO DO SO ON THE BASIS OF THIS NARROW LEGAL DISPUTE THAN IN RESPONSE TO A JUDGMENT BY THE CONGRESS OR THE ADMINISTRATION THAT THIS COUNTRY NO LONGER QUALIFIES FOR MILITARY CREDITS. IN THE FIRST INSTANCE WE FADE AWAY MORE OR LESS GRACEFULLY; IN THE SECOND WE FACE A REPEAT OF THE DAMAGING AFFAIR OF THE TRADE REFORM ACT.
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